

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b),  
FM Table of Allotments,  
FM Broadcast Stations  
(Conway and Vilonia, Arkansas)

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MB Docket No 03-23  
RM-10633

**REPORT AND ORDER**

**Adopted: December 3, 2003**

**Released: December 8, 2003**

By the Assistant Chief, Audio Division:

1. Before the Audio Division for consideration is a *Notice of Proposed Rule Making*<sup>1</sup> issued at the request of Creative Media, Inc. ("Petitioner"), licensee of Station KASR(FM), Conway, Arkansas. Petitioner proposes to substitute Channel 224C3 for Channel 224A at Conway, Arkansas, reallocate Channel 224C3 from Conway to Vilonia, Arkansas as the community's first local aural transmission service, and modify the license for Station KASR(FM) to reflect the changes. Petitioner filed comments reiterating its intention to file an application for construction permit to effectuate the change of community if the channel is reallocated. No other comments were filed.

2. Petitioner filed its proposal for reallocation in accordance with the provisions of Section 1.420(i) of the Commission's Rules, which permits the modification of a station's license to specify a new community of license while not affording other interested parties the opportunity to file competing expressions of interest in the proposed allotment.<sup>2</sup> In considering a reallocation proposal, we compare the existing allotment to the proposed allotment to determine whether the reallocation will result in a preferential arrangement of allotments. This decision is based on the FM Allotment priorities.<sup>3</sup>

3. The evidence presented is sufficient to establish that Vilonia is a community for allotment purposes. Vilonia is an incorporated community with a 2000 U.S. Census population of 2,106 persons. It has its own zip code and post office, and an elected mayor and city council. The city provides police protection and the community has a volunteer fire department. There are water and sewer services, a school district with elementary through high school. There is a public library, numerous churches, businesses and medical services.

<sup>1</sup> *Conway and Vilonia, Arkansas*, 18 FCC Rcd 795 (2003).

<sup>2</sup> *See Change of Community R&O*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

<sup>3</sup> The FM Allotment priorities are: (1) First full-time aural service; (2) Second full-time aural service; (3) first local service; (4) Other public interest matters. [Co-equal weight is given to priorities (2) and (3)]. *See Revision of FM Assignment Policies and Procedures*, 90 FCC2d 88 (1982).

4. We also find that the reallocation will serve the public interest because it will provide Vilonia with its first local service and will not deprive Conway of its sole local service.<sup>4</sup> The change of community will allow the station, previously limited to 3kW, to upgrade and facilitate its increase in service area.

5. Our engineering analysis shows that from the proposed transmitter site, there is a loss in service to an area with a population of approximately 12,000 persons, but the listeners in this area will continue to receive service from at least 5 or more aural services. There will be a gain in service to an area with a population of over 250,000 persons. No urbanized areas are involved. Channel 224C3 can be reallocated from Conway to Vilonia, Arkansas, at Creative's requested site 12.7 kilometers (7.9 miles) east of the community.<sup>5</sup>

6. IT IS ORDERED That effective January 23, 2004, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the communities listed below, to read as follows:

<u>Community</u>	<u>Channel</u>
Conway, Arkansas	286C1
Vilonia, Arkansas	224C3

7. Additionally, IT IS ORDERED That the Secretary of the Commission shall send a copy of such comments to Petitioner, RETURN RECEIPT REQUESTED as follows:

Creative Media Incorporated  
1117 Oak Street  
Suite 300  
P O Box 1266  
Conway, Arkansas 72033

8. IT IS FURTHER ORDERED That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Creative Media Incorporated, for Station, KASR(FM), Channel 224A, Conway, Arkansas, IS MODIFIED to specify operation on Channel 224C3 at Vilonia, Arkansas, subject to the following conditions:

- a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility,
- b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620, and

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<sup>4</sup> Conway would continue to receive local transmission service from four other stations. Stations KCON(AM), KTOD(AM), non-commercial educational station KUCA(FM), and KMJX(FM) also serve Conway as transmission services.

<sup>5</sup> The coordinates for Channel 224C3 at Vilonia are 35-05-02 NL and 92-04-59 WL.

- c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules, unless the proposed facilities are categorically excluded from environmental processing.

9 Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Creative Media Incorporated is required to submit rule making fees in addition to the fees required for the applications to effect their respective changes of community.

10. IT IS FURTHER ORDERED That this proceeding IS TERMINATED

11 For additional information concerning this proceeding,, contact Victoria M. McCauley, Media Bureau (202) 418-2180

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief, Audio Division  
Media Bureau